



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,643	12/20/2001	Mario Tokoro	450100-4780.1	1487
20999	7590	11/21/2003	EXAMINER	
FROMMERM LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			CUMMING, WILLIAM D	
		ART UNIT	PAPER NUMBER	12
2683				
DATE MAILED: 11/21/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/027,643	MARIO TOKORO
	Examiner WILLIAM D. CUMMING	Art Unit 2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 October 2003.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 35-68 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 35-68 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. .	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on October 8, 2003 has been entered.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 35-66 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 35-68 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 35-68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 35-68 provide for the use of a first, second, third communication system, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

6. Applicant's arguments filed October 8, 2003 have been fully considered but they are not persuasive.

Applicant's attorney seems not to understand MPEP§2173.05(q) "Use" Claims. Attempts to claim a process without setting forth any steps involved in the process generally raises an issue of indefiniteness under 35 U.S.C. 112, second paragraph. For example, a claim which read: "*A process for using monoclonal antibodies of claim 4 to isolate and purify human fibroblast interferon.*" was held to be indefinite because it merely recites a use without any active, positive steps delimiting how this use is actually practiced. Ex parte Erlich, 3 USPQ2d 1011 (Bd. Pat. App. & Inter. 1986).

Other decisions suggest that a more appropriate basis for this type of rejection is 35 U.S.C. 101. In *Ex parte Dunki*, 153 USPQ 678 (Bd. App. 1967), the Board held the following claim to be an improper definition of a process: "*The use of a high carbon austenitic iron alloy having a proportion of free carbon as a vehicle brake part subject to stress by sliding friction.*" In *Clinical Products Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966), the district court held the following claim was definite, but that it was not a proper process claim under 35 U.S.C. 101: "*The use of a sustained release therapeutic agent in the body of ephedrine absorbed upon polystyrene sulfonic acid.*"

Although a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claim that are not recited in the claim.

In view of the split of authority as discussed above, the most appropriate course of action would be to reject a "use" claim under alternative grounds based on 35 U.S.C. 101 and 112.

Applicant's attorney did not specifically point errors in the examiner's nonstatutory double patenting rejection, hence, it remains.

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
  
8. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).
  
9. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
  
10. Claims 36-68 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 of U.S. Patent No. 6,349,324. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the current application are broader than the claims in the patent.

**11. AMENDMENTS NOW MUST BE SUBMITTED IN REVISED FORMAT**

All amendments received by the Office on or after July 30, 2003 must be in compliance with the rules as required by the Revised Amendment Practice. This practice requires the submission of an amendment document that includes separate sections for amendments to the claims, drawings, specification and abstract, each beginning on a new sheet of paper. If an amendment is received as a preliminary amendment or as a *bona fide* reply under 37 CFR 1.111, that has compliant amendments to one or more separate section(s), but also includes one, or more, separate section(s) with non-compliant amendments, the Office will mail a Notice of Non-Compliant Amendment requiring correction to the non-compliant section(s) within a time period set by the Office. When making corrections, applicant should just resubmit the needed corrected section(s), and correspondingly, should not resubmit the entire amendment document. For example, if the amendment included compliant amendments to the specification and claims, and non-compliant amendments to the drawings, a notice requiring resubmission of compliant amendments to the drawings would be sent. In reply to the notice, applicant should only submit a compliant amendment to the drawings, and not the previously compliant amendments to the specification and claims. If any additional, or further, amendments to the claims are desired, the changes must be made relative to the previous compliant amendment to the claims. The Office will consider both the previous compliant amendment to the claims, and the supplemental compliant amendment to the claims, after the Office receives the compliant amendment to the drawings.

An amendment submitted on or after July 30, 2003 as part of a reply after the close of prosecution (e.g., as a reply under 37 CFR 1.116) that is not compliant with the Revised Amendment Practice will not act to toll the outstanding time period. See 37 CFR 1.135(c). A notice (e.g., an advisory action) may be mailed by the Office specifying which section(s) of the amendment was not in compliance with the Revised Amendment Practice, but no new time period will be given to provide a compliant section.

**REVISED FORMAT OF AMENDMENTS**

**Begin on separate sheets:**

Each section of an Amendment (e.g., Claim Amendments, Specification Amendments, Remarks) should begin on a separate sheet. *For example,* in an amendment containing a.) introductory comments, b.) amendments to the claims, c.) amendments to the specification, and d.) remarks, each of these sections should begin on a separate sheet. This will facilitate the process of separately indexing and scanning of each part of an amendment document for placement in an electronic file wrapper.

**Two versions of amended part(s) no longer required:**

The current requirement in 37 CFR 1.121(b) and (c) to provide two versions (a clean version and a marked up version) of each replacement paragraph, section, substitute specification or claim will be waived where an amendment is submitted in the following format:

**A) Amendments to the claims:**

Each amendment document that includes a change to an existing claim, or submission of a new claim, must include a complete listing of all claims in the application. After each claim number, the status must be indicated in a parenthetical expression, and the text of each claim under examination (with markings to show current changes) must be presented. The listing will serve to replace all prior versions of the claims in the application.

- (1) The current status of all of the claims in the application, including any previously canceled or withdrawn claims, must be given. Status is indicated in a parenthetical expression following the claim number by one of the following: (original), (currently amended), (previously amended), (canceled), (withdrawn), (new), (previously added), (reinstated – formerly claim #\_), (previously reinstated), (re-presented – formerly dependent claim #\_), or (previously re-presented). The text of all pending claims under examination must be submitted each time any claim is amended. Canceled and withdrawn claims should be indicated by only the claim number and status.
- (2) All claims being currently amended must be presented with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim should be shown by strikethrough (for deleted matter) or underlining (for added matter). An accompanying clean version is not required and should not be presented. Only claims of the status "currently amended" will include markings.
- (3) The text of pending claims not being amended must be presented in clean version, i.e., without any markings. Any claim presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version.
- (4) A claim may be canceled by merely providing an instruction to cancel. Listing a claim as canceled will constitute an instruction to cancel. Any claims added by amendment must be indicated as (new) and shall not be underlined.
- (5) All of the claims in each amendment paper must be presented in ascending numerical order. Consecutive canceled or withdrawn claims may be aggregated into one statement (e.g. Claims 1 – 5 (canceled)).

**Example of listing of claims:**

Claims 1-5 (canceled)

Claim 6 (withdrawn)

Claim 7 (previously amended): A bucket with a handle.

Claim 8 (currently amended): A bucket with a green blue handle.

Claim 9 (withdrawn)

Claim 10 (original): The bucket of claim 8 with a wooden handle.

Claim 11 (canceled)

Claim 12 (new): A bucket with plastic sides and bottom.

Claim 13 (previously added): A bucket having a circumferential upper lip.

Claim 14 (re-presented – formerly claim 11): A black bucket with a wooden handle.

**B) Amendments to the specification:**

Amendments to the specification may be made by presenting a replacement paragraph, section or substitute specification marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented.

**C) Amendments to drawing figures:**

Drawing changes may be made by presenting replacement figures which incorporate the proposed changes and which comply with § 1.84. An explanation of the changes made must be presented in the remarks section of the amendment. If the changes to the drawing figure(s) are not approved by the examiner, applicant will be informed in the next Office action. Any replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing should not be labeled as "amended."

Any questions regarding the submission of amendments pursuant to the revised practice set forth in this flyer should be directed to the following legal advisors in the Office of Patent Legal Administration (OPLA): Elizabeth Dougherty ([Elizabeth.Dougherty@uspto.gov](mailto:Elizabeth.Dougherty@uspto.gov)), Gena Jones ([Eugenia.Jones@uspto.gov](mailto:Eugenia.Jones@uspto.gov)) or Joe Narcavage ([Joseph.Narcavage@uspto.gov](mailto:Joseph.Narcavage@uspto.gov)). For information on the waiver or legal aspects of the prototype, please contact Jay Lucas ([Jay.Lucas@uspto.gov](mailto:Jay.Lucas@uspto.gov)), Senior Legal Advisor (PCTLA) or Rob Clarke ([Robert.Clarke@uspto.gov](mailto:Robert.Clarke@uspto.gov)), Senior Legal Advisor (OPLA). Alternatively, further information may be obtained by calling OPLA at (703) 305-1616.

**12. Patent Customers Advised to FAX Communications to USPTO**

Facsimile transmissions of communications to the Office can significantly expedite processing of the communication within the Office. For example, when an assignment document is faxed to the Office, the average cycle time to process, record, and send a notice of recordation is one calendar day, whereas when the document is mailed to the Office, the average cycle time is 113 calendar days. See Status of Office of Public Records Services, 1269 Off. Gaz. Pat. Office 19,20 (April 1, 2003).

With many of the facsimile numbers provided below (i.e., those numbers below with 746 or 872 after the area code in the facsimile number), a return receipt will be automatically generated that will include the number of pages received as well as the date and time the facsimile was received. Additionally, the return receipt will include an image of the received cover page. The return receipt will be automatically sent to the sender's facsimile machine so long as the sender's facsimile number is properly programmed in the sending facsimile machine, and the sender's facsimile machine is available to receive a fax immediately following the original transmission. (Note that with area code changes, or with movement of a facsimile machine from one number to another, the facsimile machine's number may need to be reprogrammed.) Even if a return receipt is not desired, at least the first page of the facsimile transmission must clearly indicate the date and time the transmission is sent, an identification of the business, other entity, or individual sending the transmission, and the telephone number of the sending machine or of such business, other entity, or individual. See 47 U.S.C. 227(d)(1)(B) and 47 CFR 68.318(d). A return receipt will be attempted to be sent several times, but if a busy signal is repeatedly received, a return receipt will not be received by the sender. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to an Office action by facsimile (see 37 CFR 1.6 and 1.8). Applicants are also advised to retain the return receipt in the event that the Office has no record of the facsimile submission.

PTO Form 2038 should be used when authorizing payment by credit card; this form is maintained separate from the file to ensure confidentiality. Note that current processing of assignment documents now permits use of a credit card, but that PTO form 2038 should be used to prevent credit card information from being included in public records. Form PTO-2038 may be downloaded at <http://www.uspto.gov/web/forms/2038.pdf> from the USPTO website.

#### Faxes to the Office of Initial Patent Examination

Responses to notices from the Office of Initial Patent Examination (OIPE) and requests for corrected filing receipts may be filed by facsimile. New applications (other than continued prosecution applications (CPAs) under 37 CFR 1.53(d)) may not be filed by facsimile. The following is a list of Official Facsimile Numbers for the OIPE:

Fax number for corrected Filing Receipt Requests: 703-746-9195

Fax number for Response to Notice to File

Missing Parts (drawings may not be submitted by fax): 703-746-4060

Telephone number for Customer Service: 703-308-1202

Faxes to the Technology Centers

In addition, communications may be faxed to the Technology Centers. The following is a list of Official Facsimile Numbers for the Technology Centers:

**TC1600:**

Before Final: 703-872-9306

After Final: 703-872-9307

Customer Service: 703-872-9305

Telephone number for customer service: (703) 308-0198

**TC2800:**

Before Final: 703-872-9318

After Final: 703-872-9319

Customer Service: 703-872-9317

Telephone number for customer service: (703)306-3329

**TC1700:**

Before Final: 703-872-9310

After Final: 703-872-9311

Customer Service: 703-872-9309

Telephone number for customer service: (703)306-5665

**TC2900:**

Before Final: 703-872-9322

After Final: 703-872-9323

Customer Service: 703-872-9321

Telephone number for customer service: (703)306-5648

**TC2100:**

Before Final: 703-746-7239

After Final: 703-746-7238

Customer Service: 703-746-7240

Telephone number for customer service: (703)306-5631

**TC3600:**

Before Final: 703-872-9326

After Final: 703-872-9327

Customer Service: 703-872-9325

Telephone number for customer service: (703)306-5771

**TC2600:**

**Before Final: 703-872-9314**

**After Final: 703-872-9315**

**Customer Service: 703-872-9313**

**Telephone number for customer service: (703)306-0377**

**TC3700:**

Before Final: 703-872-9302

After Final: 703-872-9303

Customer Service: 703-872-9301

Telephone number for customer service: (703)306-5648

Faxes to the Office of Patent Publication

Patent applicants are also reminded that 37 CFR 1.6(d) permits payment of an issue fee and a publication fee (if required) by facsimile transmission. When drawings are submitted with payment of an issue fee, they may be submitted by facsimile, although applicants are reminded that the facsimile process may reduce the quality of the drawings, and the Office will generally print the drawings received.

The applicable telephone numbers for payment of the issue and/or publication fee(s) by facsimile transmission are as follows:

Fax number for Issue Fee

(and any Publication Fee) Payments: (703) 746-4000

Telephone number to check on receipt

of payment (with Office of Patent Publication): (703) 305-8283

The Office of Patent Publication also handles many matters related to publication of patent applications. For example, express abandonments under 37 CFR 1.138(c) are handled by the Pre-Grant Publication Division of the Office of Patent Publication. In addition, requests to rescind a nonpublication request and notices of foreign filing should be directed to the Pre-Grant Publication Division.

Questions regarding publication of patent applications (or rescissions of nonpublication requests) may also be directed by e-mail to pgpub@uspto.gov.

Fax number for PGPUB correspondence: (703) 305-8568

Telephone number for the Pre-Grant Publication Division: (703) 605-4283

Faxes of Assignment Documents

Facsimile transmission to record an assignment or other documents affecting title is also accepted. This process allows customers to submit their documents directly into the automated Patent and Trademark Assignment System and receive the resulting recordation notice at their fax machine. Credit card payments to record assignment documents are now accepted, but use of the credit card form (PTO Form-2038) is required for the credit card information to be separated from the assignment records. Only documents with an identified patent application or patent number, a single cover sheet to record a single type of transaction, and the fee paid by a USPTO deposit account or credit card may be submitted via facsimile. Please refer to our Web Site, at <http://www.uspto.gov/web/offices/ac/ido/opr/ptasfax.pdf> for more information regarding the submission of assignment documents via facsimile.

Fax number for Automated Patent and Trademark Assignment system: 703-306-5995

Telephone number for Assignment Division for assistance: 703-308-9723

Faxes to the Office of Petitions

Applicable correspondence may be submitted to the Office of Petitions via facsimile. For questions concerning Petitions, contact the Office of Petitions at the numbers below:

Fax number for the Office of Petitions: 703-308-6916

Telephone number for customer service and inquiries: 703-305-9282

13. If applicants wish to request for an interview, an "*Applicant Initiated Interview Request*" form (PTOL-413A) should be submitted to the examiner prior to the

interview in order to permit the examiner to prepare in advance for the interview and to focus on the issues to be discussed. This form should identify the participants of the interview, the proposed date of the interview, whether the interview will be personal, telephonic, or video conference, and should include a brief description of the issues to be discussed. A copy of the completed "*Applicant Initiated Interview Request*" form should be attached to the Interview Summary form, PTOL-413 at the completion of the interview and a copy should be given to applicant or applicant's representative.

14. SPECIAL MAIL STOPS FOR PATENT MAIL

Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003). The mail stop should generally appear as the first line in the address, but the term "Mail Stop" may be abbreviated "MS". Special mail stop designations should be used to allow forwarding of particular types of mail to the appropriate areas as quickly as possible. Such mail may be forwarded to the appropriate area without being opened. Only the specified type of document should be placed in an envelope addressed to one of these special mail stops. If any documents other than the specified type identified for each special mail stop are addressed to that mail stop, they will be significantly delayed in reaching the appropriate area for which they are intended.

Some correspondence may only be submitted via the Office's electronic filing system (EFS). Instructions on how to file and what can be filed via EFS are posted on the Office's Internet Web site <http://www.uspto.gov> under the Electronic Business Center section.

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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## FINAL REJECTION

Please address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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2011 South Clark Place  
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Mail Stop Designations	Explanation
Mail Stop 12	Contributions to the Examiner Education Program.
Mail Stop 313(c)	Petitions under 37 CFR 1.313(c) to withdraw a patent application from issue after payment of the issue fee and any papers associated with the petition, including papers necessary for a continuing application or a request for continued examination (RCE).
Mail Stop AF	Amendments and other responses after final rejection, other than an appeal brief.
Mail Stop Appeal Brief- Patents	For appeal briefs under 37 CFR 1.192 or reply briefs under 37 CFR 1.193(a).
Mail Stop Application Number	For fee and petitions under 37 CFR 1.182 to obtain Mail Stop Designation received and/or application number for patent applications prior to the Office's standard notification (return post card or the official "Filing Receipt," "Notice to File Missing Parts," or "Notice of Incomplete Application").
Mail Stop Comments- Patents	Public comments regarding patent related regulations and procedures.
Mail Stop Conversion	Requests under 37 CFR 1.53(c)(2) to convert a nonprovisional application to a provisional application and requests under 37 CFR 1.53(c)(3) to convert a provisional application to a nonprovisional application.
Mail Stop CPA	Requests for Continued Prosecution Applications (CPA's) under 37 CFR 1.53(d).
Mail Stop DD	Disclosure Documents or materials related to the Disclosure Document Program.
Mail Stop Design	The filing of all design patent applications that do not request expedited examination under 37 CFR 1.55.
Mail Stop EBC	Mail for the Electronic Business Center
Mail Stop ILS	Correspondence relating to international patent classification, exchanges and standards.
Mail Stop Expedited Design	Only to be used for the initial filing of design applications accompanied by a request for expedited examination under 37 CFR 1.155. (Design applicants seeking expedited examination may alternatively file a design application and corresponding request under 37 CFR 1.155 by hand-delivering the application papers and request directly to the Design Group Director's office.)

Mail Stop Issue Fee	All communications following the receipt of a PTOL-85, "Notice of Allowance and Fee(s) Due," and prior to the issuance of a patent should be addressed to Mail Stop Issue Fee, unless advised to the contrary. Issue fee payments can also be faxed to (703)746-4000. Assignments are the exception. Assignments (with cover sheets) should be faxed to (703)306-5995 or submitted in a separate envelope and be sent to Mail Stop Assignment Recordation Services, Director - US Patent and Trademark Office as shown below.
Mail Stop Missing Parts	Reply to the Notice to File Missing Parts of Application and associated papers and fees. Note that such correspondence may also be faxed to: 703-746-4060.
Mail Stop MPEP	Submissions concerning the Manual of Patent Examining Procedure.
Mail Stop Non-Fee Amendment	Non-fee amendments to patent applications. (Use Mail Stop AF for replies after final rejection.)
Mail Stop Patent Application	New patent applications and associated papers and fees.
Mail Stop Patent Ext.	Applications for patent term extension and any communications relating thereto.
Mail Stop Petition	Petitions to be decided by the Office of Petitions including petitions to revive and petitions to accept late payment of issue fees or maintenance fees.
Mail Stop PG PUB	Correspondence regarding publication of patent applications not otherwise provided, including requests for early publication made after filing, rescission of non-publication request, corrected patent application publication, refund of publication fee.
Mail Stop PG PUB - ABD	Petitions under 37 CFR 1.138 to expressly abandon an application to avoid publication of the application.
Mail Stop PG PUB Drawings	Drawings to be included in a patent application publication (replacement drawings for drawings included with a patent application on filing).
Mail Stop PCT	Mail related to applications filed under the Patent Cooperation Treaty.
Mail Stop Provisional Patent Application	The filing of all provisional patent applications and any communications relating thereto.
Mail Stop RCE	Requests for continued examination under 37 CFR 1.114.
Mail Stop Reconstruction	Correspondence pertaining to the reconstruction of lost patent files.
Mail Stop <i>Ex Parte</i> Reexam	Requests for Reexamination for original request papers <b>only</b> .
Mail Stop <i>Inter Partes</i> Reexam	Requests for <i>Inter Partes</i> Reexamination for <i>original</i> request papers <b>and</b> for all <i>subsequent</i> correspondence other than correspondence to the Office of the Solicitor (see 37 CFR §§ 1.1(a)(3) and 1.302(c)).
Mail Stop Reissue	All new and continuing reissue application filings.
Mail Stop Sequence	Submission of diskette for applications with sequence listings.

Application/Control Number: 10/027,643  
Art Unit: 2683 11/18/03 1:12 AM  
FINAL REJECTION

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MARIO TOKOTO

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Questions regarding the information provided on this page should be directed to: Darnell Jayne, Legal Advisor in the Office of Patent Legal Administration, by telephone at (703) 308-6906 or by e-mail addressed to [Darnell.Jayne@USPTO.gov](mailto:Darnell.Jayne@USPTO.gov).

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner **WILLIAM D. CUMMING** whose telephone number is 703-305-4394. The examiner can normally be reached on Monday-Thursday, 10:30am to 8:30pm EST..

Application/Control Number: 10/027,643  
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16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Supervisory primary Examiner WILLIAM TROST can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-6075 for regular communications and 746-6075 for After Final communications.

17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.



WILLIAM D. CUMMING  
Primary Examiner  
Art Unit 2683

wdc  
November 18, 2003



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